

HOW STATEHOOD VIOLATED KANAKA MAOLI SELF-DETERMINATION

By Kekuni Blaisdell, for August 21, 1999, Kū'e (anti-Statehood protest), at Iolani Palace.

On August 21, 1959, Ka Pae'āina (the Hawaiian Archipelago) officially became the 50th US state when US President Dwight Eisenhower declared that "the procedural requirements imposed by the Congress on the State of Hawai'i to entitle that state to admission into the Union have been complied with in all respects."

While the colonial establishment has subsequently annually celebrated August 21 as a state holiday, only since about 1985, have we Kānaka Maoli begun to learn that the 1959 Statehood process was a fraud. Here are the facts:

- o In 1946, at the time of the founding of the United Nations (UN), Ka Pae'āina was placed on the UN List of Non-Self-Governing Territories (colonies) eligible for decolonization as a consequence of the US's forced "annexation"/occupation of Ka Pae'āina since 1898.

- o According to the UN Charter, Chapter XI, Article 73, the US, as the administering (colonizing) power in Ka Pae'āina, had a "sacred trust . . . to ensure, with due respect for the culture of the people concerned, their political, economic, social and educational advancement . . . and to assist them in the progressive development of their free political institutions." The US intentionally failed to fulfill this "sacred trust" responsibility to our colonized Kanaka Maoli people.

- o Instead, the US fostered cultural assimilation, that is, Kanaka Maoli ethnocide. Then in the 1950s, aware that the UN was refining a decolonization process to be considered by the UN General Assembly in 1960, the US moved to ensure that Ka Pae'āina (and Alaska) would be incorporated as state(s) of the Union before 1960.

- o March 12, 1959, the US Congress passed the Hawai'i Statehood Admission Act (PL 86-3), before a vote on the issue by our colonized Kanaka Maoli people, in violation of our Kanaka Maoli right to self-determination.

- o June 27, 1959, an Admission Act-mandated "plebiscite" in Ka Pae'āina posed only one option on the ballot: immediate statehood. The colonial establishment trumpeted statehood as "equal opportunity and autonomy." The only other (unstated) option was for Ka Pae'āina to remain as a territory. No reference was made to two other options—independence or free association—as provided by UN General Assembly Resolution (UNGAR) 742 of 1953.

- o While only our Kanaka Maoli people in Ka Pae'āina were colonized and, therefore, eligible for the exercise of self-determination, we were not informed of this important fact. We comprised only 16% of the resident population. In further violation of international law, all US citizens in Ka Pae'āina were allowed to vote, including US military personnel, and there was no international supervision of the process. The vote outcome was as predicted with a large majority in favor of immediate statehood.

- o September 17, 1959, unknown to the general public, the US misinformed the UN that "Alaska and Hawai'i had attained full measure of self-government as admitted states."

- o December 12, 1959, without public announcement, the misinformed UN General Assembly approved Resolution 1469 noting that "the people of Alaska and Hawai'i have effectively exercised their right to self-determination and have freely chosen their present status."

- o One year later, on December 14, 1960, the UN DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES was passed as UNGAR 1514. The concluding paragraphs defined self-determination and clarified some specific features, conditions and expected outcomes of the UN decolonization process:

- The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the UN and is an impediment to the promotion of world peace and cooperation.

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- All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

- Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

- All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence and the integrity of their national territory shall be respected.

- Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or color, in order to enable them to enjoy complete independence and freedom.

- Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

The peoples of Ka Pae'āina and our colonized Kānaka Maoli in particular have never been formally and publically informed of the foregoing historical events.

This history does not appear in textbooks and is not taught as part of the core curriculum in the island colonial schools.

o August 12-21, 1993, Ka Ho'okolokoinui Kanaka Maoli - The Peoples' International Tribunal Hawai'i - found the US guilty of nine charges. These included "utilizing the mechanism of an invalid plebiscite, which denied Kanaka Maoli the right to express their will with regard to their political status and the disposition of their territory, the US incorporated Ka Pae'āina into the Union as a state, in violation of Kanaka Maoli law, Article 73 of the UN Charter and UN General Assembly Resolution 1514." The Tribunal then recommended that the US and world acknowledge the Kanaka Maoli right to UN decolonization.

o November 23, 1993, US President William Clinton signed the US Congress Apology Resolution into law (PL 103-150). In Whereas clause 29, the US clearly recognized that in spite of the US's role in the 1893 illegal seizure of the Kanaka Maoli government and lands, "the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum."

o In the concluding Resolved paragraphs, PL 103-150 acknowledged US "suppression of the inherent sovereignty of the Native Hawaiian people... and the deprivation of the rights of Native Hawaiians to self-determination."

Although PL 103-150 also admitted that the US aggressions in Ka Pae'āina in 1893 were violations of treaties between the two nations and of international law, the official colonial establishment and the colonial communications media continue to avoid any reference to Ka Pae'āina as a colony, that we Kānaka Maoli are colonized or that international law has any relevance.

o In July 1994, Kanaka Maoli Tribunal representatives submitted the August 1993 Kanaka Maoli Tribunal Interim Report with Recommendations and the US Apology Resolution (PL 103-150) to the UN Working Group on Indigenous Populations in Geneva.

The US colonial establishment ignored the Tribunal Report and has taken no followup "reconciliation" actions on the US Apology Resolution. Indeed, as recently as 1996, Prof. Jon Van Dyke of the UH law school, perpetuated the misinformation that the people of Hawai'i exercised their right to self-determination in the 1959 Statehood "plebiscite."

o September 23, 1997, in Rarotonga, the Pacific Islands Association of Non-Government Organizations (PIANGO)/Pacific Concerns Resource Center (PCRC)-Nuclear Free and Independent Pacific (NFIP) 3rd NGO Parallel Forum officially adopted Ka Pae'āina delegation's

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Resolution on Kanaka Maoli Self-Determination and Reinscription of Ka Pae'āina on the UN List of Non-Self-Governing Territories.

The approved motion recommended that this resolution for reinscription of Ka Pae'āina be forwarded with a similar resolution for reinscription of Te Ao Maohi (French Polynesia) to the South Pacific Forum for endorsement and thence to the UN General Assembly for action. This was the strategy previously successfully taken by the Kanaks of Kanaky (New Caledonia) in their long pursuit of decolonization and independence from France.

o June 18, 1998, the UN Decolonization Committee (C24) meeting in Nadi, Fiji, concluded that: C24 needs to continue its work toward the eradication of colonialism inclusive of territories not on the UN List of Non-Self-Governing Territories; the decolonization process needs to be expanded to deal with the devastating effects of nuclearization, militarism and economic globalization on colonized peoples and their environments; and efforts should be made to facilitate the participation of the territories as members or observers to relevant UN organizations... as in the General Assembly to review and implement various plans of action.

o July 1998, the UN Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Populations, submitted to the UN Working Group on Indigenous Populations, proposed that since the US 1898 annexation of Ka Pae'āina was invalid, Ka Pae'āina "could be reentered on the List of Non-Self-Governing Territories" for decolonization.

This was the first recognition by the UN that the US's annexation of Ka Pae'āina was illegal and the first specific proposal from a UN body that Ka Pae'āina be reinscribed as a colony.

o September 19-25, 1999, at the PCRC-NFIP conference in Arue, Tahiti, the Kanaka Maoli delegation will again urge a Pacific Region strategy, previously used by the Kanaks of Kanaky (New Caledonia): UN reinscription-decolonization of Ka Pae'āina and Te Ao Maohi (French Polynesia) to be endorsed by the South Pacific Forum and then formally introduced by Pacific Island members of the UN to the UN General Assembly.

Opposition by the US is anticipated, just as the US is resisting the Chamoru nation of Guam, still on the List of Non-Self-Governing Territories, from proceeding with a UN supervised Chamoru self-determination decolonization process.

Meanwhile, the US colonial occupation in Ka Pae'āina continues to undermine Kanaka Maoli self-determination and decolonization by:

- (1) promoting the HSEC/Hā Hawai'i/Native Hawaiian Convention puppet government process to maintain US and State of Hawai'i control over our stolen ("ceded") lands; and by
- (2) specifying in the *Rice vs Cayetano* case to be considered by the US Supreme Court in October 1999, that the US and State governments have a "special trust relationship" to the Kanaka Maoli people analogous to the relationship of the US toward "other US indigenous peoples or Native Americans."

According to the US Congress and the State of Hawai'i, Kānaka Maoli are two peoples:

- (1) "native Hawaiians" (50% or more blood quantum), as defined in the Hawaiian Homes Commission Act of 1921, and as "beneficiaries of the Hawaiian Home Lands trust"; and
- (2) "Native Hawaiians" (indigenous to the US, rather than to Ka Pae'āina), as defined in over 100 pieces of Congressional legislation, and problematic "beneficiaries of the (problematic) ceded (stolen) lands trust."

Under US Indian Law, we Kānaka Maoli would be considered "a domestic dependent nation" to be treated as "wards" of the US as well as the State of Hawai'i, subject to the "plenary power of the US Congress."

Such designations and outcomes continue to violate our Kanaka Maoli inherent sovereignty and right to self-determination. Yet they are promoted by the colonial establishment as representing "reasonable resolution of the Native Hawaiian sovereignty issue." No laila, pono mākou i KŪ'E! (Therefore, we must protest!)

Table 9.05-- HAWAII STATE GOVERNMENT FINANCES: 1996

[Amount in thousands of dollars, per capita in dollars. Fiscal year ended June 30]

Category 1/	Amount	Percent distribution	Per capita
Total revenue	6,383,347	100.0	5,391.34
General revenue	5,379,231	84.3	4,543.27
Intergovernmental revenue	1,227,974	19.2	1,037.14
Taxes	3,079,404	48.2	2,600.85
General sales	1,431,802	22.4	1,209.29
Selective sales	472,881	7.4	399.39
License taxes	85,456	1.3	72.18
Individual income	999,976	15.7	844.57
Corporation net income	65,547	1.0	55.36
Other taxes	23,742	0.4	20.05
Current charges	755,596	11.8	638.17
Miscellaneous general revenue	316,257	5.0	267.11
Insurance trust revenue	1,004,116	15.7	848.07
Total expenditure	5,946,676	100.0	5,022.53
General expenditure, by function:	5,229,112	87.9	4,416.48
Education	1,548,266	26.0	1,307.66
Public welfare	914,957	15.4	772.77
Hospitals	181,127	3.0	152.98
Health	305,725	5.1	258.21
Highways	269,998	4.5	228.04
Police protection	8,618	0.1	7.28
Correction	105,997	1.8	89.52
Natural resources	75,358	1.3	63.65
Parks and recreation	109,075	1.8	92.12
Governmental administration	268,141	4.5	226.47
Interest on general debt	332,513	5.6	280.84
Other and unallocable	1,109,337	18.7	936.94
Utility expenditure	168	-	0.14
Liquor stores expenditure	0	0.0	0.00
Insurance trust expenditure	717,396	12.1	605.91
General expenditure	5,229,112	87.9	4,416.48
Intergovernmental expenditure	144,333	2.4	121.90
Direct expenditure	5,084,779	85.5	4,294.58
Debt at end of fiscal year	5,116,982	100.0	4,321.78
Cash and security holdings	9,675,590	100.0	8,171.95

1/ Utility revenue, and Liquor stores revenues and expenditures are zero.

Source: U.S. Department of Commerce, <<http://www.census.gov/govs/state/96sthi.html>>.

Table 9.06-- STATE GOVERNMENT REVENUES: 1994 AND 1995

[In thousands of dollars. For fiscal years ended June 30]

Source of revenues	1994 All funds	1995		
		All funds	General fund	Special funds
Total 1/	5,141,218	5,045,203	2,907,945	2,137,258
Tax revenues	3,000,067	2,829,709	2,594,746	234,963
General excise	1,330,239	1,358,262	1,358,262	-
Specific excises 2/	469,964	379,587	238,123	141,464
Individual income	969,108	925,338	925,338	-
Corporate income	36,840	30,249	30,249	-
Transient accommodations	3,895	4,135	4,135	-
Unemployment compensation	85,174	62,687	-	62,687
Other taxes, licenses, permits 3/	104,847	69,451	38,639	30,812
Fines, forfeits, and escheats	17,407	17,821	15,926	1,895
Federal grants-in-aid	938,322	964,769	17,583	947,186
Revenues from other agencies	33,440	34,098	6,442	27,656
Rents, royalties, land income 4/	122,203	145,021	6,479	138,542
Earnings: general departments	460,681	493,845	123,192	370,653
Earnings: auxiliary enterprises	52,415	56,141	-	56,141
Earnings: public service enterprises	230,326	190,701	-	190,701
Interest earned	152,172	151,314	78,203	73,111
Miscellaneous	134,185	161,784	65,374	96,410

1/ Excludes transfers and repayments except as shown.

2/ Includes public service companies, tobacco, liquor, insurance, vehicle registration and weight, and fuel taxes.

3/ Includes franchise, inheritance and estate, and conveyance taxes.

4/ Includes investment and unallocable interest income.

Source: Tax Foundation of Hawaii, *Government in Hawaii*, 1996, table 12.

**Table 9.07-- STATE GOVERNMENT OPERATING EXPENDITURES,
BY FUNCTION: 1985 TO 1995**

[In thousands of dollars. For fiscal years ended June 30. Data include general, special, and proprietary fund expenditures; unemployment trust fund treated as a special fund.
Interfund transfers eliminated to avoid duplication]

Functions	1985	1994	1995
Total 1/	2,529,814	5,573,617	5,781,263
General government: Control	51,793	113,666	118,535
Staff	82,218	366,848	395,249
Public safety: Police and fire	2,066	11,218	12,287
Other protection	78,853	176,163	164,653
Highways	58,534	125,105	140,776
Natural resources	21,031	42,560	47,372
Health and sanitation	104,350	186,710	189,114
Hospitals and institutions	87,233	331,924	315,107
Public welfare 1/	321,112	851,575	1,009,033
Education: Higher	272,478	542,443	587,231
Public education	414,815	843,958	894,437
Libraries and other	21,854	46,352	46,305
Recreation	14,256	37,985	43,184
Utilities and other enterprises	160,692	286,438	280,063
Debt service 2/	240,078	460,258	504,790
Retirement and pension	142,354	275,168	190,630
Employees' health and hosp. insurance	32,644	622	738
Unemployment compensation	79,562	243,985	219,539
Grants-in-aid to counties	18,173	2,375	3,843
Urban redevelopment and housing	229,545	142,609	135,101
Miscellaneous	35,668	112,760	189,671
Cash capital improvements	60,504	372,896	293,603

1/ Reflects Source correction for Total for 1994 of \$5,636,090,973 and Public welfare \$831,575,136; and revision of Cash capital improvements of \$455,369,454 to \$372,895,882.

2/ Debt service on revenue bonds reimbursable from highway funds included under Highways; from airport and harbor funds under Utilities; Sand Island receipts, land revolving trust, and Veterans' home loan funds under Miscellaneous.

Source: Tax Foundation of Hawaii, *Government In Hawaii* (annual), table 35.



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DATE: November 22, 1999

TO: Assistant Secretary John Berry
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FROM: Kekuni Blaisdell, Convenor
Kanaka Maoli Tribunal Kōmike

Aloha 'āina e Mr. Secretary John Berry and Director of Tribal Justice Mr. Mark Van Norman:

Mahalo ho'i for this opportunity to submit testimony from the Kanaka Maoli Tribunal Kōmike for the December 10 panels and December 11 roundtable on the Reconciliation Public Consultations scheduled at the East-West Center in Honolulu.

To Kānaka Maoli undergoing self-decolonization in restoring our nation, your Reconciliation Consultations, as currently planned, are an ominous trap and diversion in the following ways:

1. Your first day panels may be expected to detail the persistent, severe health, economic, social and cultural devastation of our Kanaka Maoli people. This plight results from the US's destruction of our government and taking of our lands, cultural conflict and coercive assimilation, as reported in the August 1993 Peoples' International Kanaka Maoli Tribunal and acknowledged in part by the November 1993 US Apology Resolution. Colonial government testifiers may be expected to recommend more US Federal funds and programs and bolstering of OHA and the Hawaiian Homes program. However, this approach promotes more colonial dependency.
2. On the second day, roundtable discussion of topics "within the framework of federal law" is a violation of our Kanaka Maoli inherent sovereignty and right to true and full self-determination under indigenous cultural law and international law.
3. "Reconciliation," however defined, cannot be just unless there is appropriate redress. Full redress for US wrongs against our Kanaka Maoli people and nation requires Kānaka Maoli and the US negotiating as equal powers and with mutual consent. This, in turn, requires oversight by the international community.
4. "Federal Government's political relationship with Native Hawaiians" has been variously defined by the US Congress and recently argued by the State of Hawai'i, OHA and the US Administration in the pending *Rice v. Cayetano* case before the US Supreme Court. This "unique trust relationship" evolved as it was imposed by the colonial US, Territory and State of Hawai'i governments to co-opt increasing Kanaka Maoli demands for pressing health, economic and social needs.

The imposed "trust responsibility" consists of two "trusts" that divide us Kānaka Maoli into "native Hawaiian" vs "Hawaiian" or "Native Hawaiian" "beneficiaries," each with different colonial "entitlements," including promised lands.

Both "trusts" from their inception continue to be abused by the colonial "trustee" US and State governments to the detriment of Kanaka Maoli "beneficiaries."

Since this "trust relationship" was imposed, without initiation, negotiation nor mutual consent by the Kanaka Maoli people, it, too, is a violation of our Kanaka Maoli inherent sovereignty and right to self-determination.

Colonial US and State of Hawai'i authorities argue that the Kanaka Maoli "trust relationship" is analogous to Federal Indian Law. We Kānaka Maoli strongly reject such arguments and refuse to be as American Indians, "wards" "in a state of pupillage" of a "domestic dependent nation" "subject to the plenary power of Congress." Indeed, as decolonizing Kānaka Maoli, we also reject being Native Americans, Americans, Hawaiians, native Hawaiians and Native Hawaiians.

5. "Self-determination" for us Kānaka Maoli cannot be limited to "self-government" as determined by OHA, or by Federal Indian Law. It must be true and full self-determination as defined by UN General Assembly Resolutions 1514 (1960) and 2200 (1966): "All peoples have the right to self-determination; by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."

6. "Ceded lands" is a limited and ambiguous term. It usually refers to all of the c.1.8 million acres of crown and Hawaiian Kingdom government lands that were illegally transferred ("ceded") by the unlawful Dole Republic of Hawaii to the US at the time of the illegal annexation in 1898. Since 1959, the term usually refers to the remaining 1.2 million acres of land that were transferred by the US government to the State of Hawai'i. Thus, it usually excludes Hawaiian Home Lands and sometimes, lands controlled by the US government, military and National Park Service. We need also to bear in mind that:

a. About 200,000 acres of additional crown and Kingdom government lands were disposed of by the haole (white) Provisional Government and Republic of Hawaii, between 1893 and 1898, mainly to the haole (white) oligarchy, before the 1898 illegal annexation.

b. All lands were and are subject to the common vested interest of all *hoā'āina* Kānaka Maoli under Hawaiian Kingdom law and all subsequent (illegal) governments, including the State of Hawai'i.

c. The entire *Ka Pae'āina* (archipelago), including more than 120 small islands, atolls, waters and submerged ocean beds extending from shorelines to 200 miles of open sea (Exclusive Economic Zone) is our Kanaka Maoli homeland, under indigenous cultural law and western international law.

d. In the 1993 Apology Resolution, the US acknowledged that we Kānaka Maoli never directly relinquished our claims to our inherent sovereignty as a people or over our national lands to the US. The Apology Law also acknowledged that we Kānaka Maoli are determined to preserve, develop and transmit to future generations our ancestral territory... and institutions. Yet, the colonial US Federal and State governments refuse to "return all Kanaka Maoli lands without delay," as recommended by the August 1993 Kanaka Maoli Tribunal.

e. The only lands considered to-date by the colonial US and State governments for potential return to the Kanaka people and nation are the US-bombed and uninhabited Kaho'olawe island, Hawaiian Home Lands and "some" undefined "ceded lands."

In summary, we decolonizing Kānaka Maoli protest colonial attempts to trap us into a further colonized and dependent "political trust relationship" as "beneficiaries" with the colonial US and State governments as "trustees" determining our meager "entitlements." This dependent relationship is inadequate to meet our pressing health, economic, social and cultural needs under their colonial rule. We consider such attempts to be diversions from a readily available option to relieve the plight of our people.

The alternative is the exercise of our Kanaka Maoli true and full self-determination through UN peaceful decolonization, as recommended by the August 1993 Kanaka Maoli Tribunal, based on indigenous cultural law, western international law and the November 1993 US Apology Law.

The main features and actions of this alternative are here outlined:

1. Reinscription of our Kanaka Maoli homeland *Ka Pae'āina* (Hawai'i) on the UN List of Non-Self-Governing Territories. Since the 1993 Tribunal recommendations, we of the Kanaka Maoli Tribunal *Kōmike* have gained support for reinscription from the 1994 Pacific Indigenous Caucus

at the UN Working Group on Indigenous Populations; endorsements from the 1995 Pacific Islands Association of Non-Government Organizations (PIANGO) Council on Mo'orea, the September 1996 Indigenous Peoples of the Pacific Workshop on the UN Draft Declaration on the Rights of Indigenous Peoples in Suva, Fiji, the December 1996 7th Nuclear Free and Independent Pacific (NFIP) Conference in Suva, Fiji. Resolutions from the September 1997 Pacific Concerns Resource Center/PIANGO 3rd Non-Government Organization Parallel Forum in Rarotonga and the September 1999 8th NFIP Conference in Arue, Tahiti, call for seeking endorsement from the South Pacific Forum for an initiating resolution in the UN General Assembly. Presentations for reinscription of Ka Pae'āina were also made at the June 1998 UN Decolonization Committee Seminar in Nadi, Fiji, and September 1999 UN Decolonization Committee in New York.

2. Public education on the Kanaka Maoli UN decolonization process in Ka Pae'āina and abroad has continued since the Tribunal in August 1993 in spite of resistance from the colonial establishment. This education effort begins with personal decolonization of the mind, that is, thinking, feeling and behaving as Kanaka Maoli.
3. We emphasize that since initial inscription of Ka Pae'āina in 1946 and the US fraudulent 1959 Statehood process resulting in UN deinscription of Ka Pae'āina, the US, under the UN Charter, has had a "sacred trust" relationship to the UN as administering authority to promote Kanaka Maoli decolonization through an exercise of true self-determination with three options: independence, free association and integration.

Meanwhile, we Kānaka Maoli retain full rights as a people and territory, separate and distinct from the US. We Kānaka Maoli are also entitled to seek and receive technical and financial assistance and impartial oversight from the international community in the self-determination education and voting process. The timetable for this process must be determined by our Kanaka Maoli people. All US repressive measures against Kānaka Maoli must cease. The US must transfer power to our colonized Kanaka Maoli people to attain equality of power. Negotiations and agreements must be by mutual consent. All Kanaka Maoli lands must be returned without delay.

4. As an indigenous people with our own cultural laws, we Kānaka Maoli have a timeless history of being naturally free and independent, and in a natural state of dynamic social, cultural and political evolution. This includes being self-determining, self-governing, self-sufficient and protectors and nurturers of our sacred environment. We are always aware that we depend on our environment for our survival and for all generations in the future. We consider the entire cosmos to be living, conscious and communicating. We come from our sacred cosmos and we belong to it. This indigenous cosmic view contrasts with the materialistic, instant-gratification credo of the dominant, global colonizers whose continuing economic, military and nuclear exploitation results in world-wide devastation.

5. We Kānaka Maoli respect the rights of non-Kānaka Maoli in our homeland under international law and, currently, under the US Constitution while the US exercises *de facto* sovereignty in Ka Pae'āina. When the US withdraws from its illegal occupation of our homeland and yields *de facto* sovereignty to us Kānaka Maoli, the protection of non-Kānaka Maoli will come under the new authority of Kānaka Maoli, as in any other nation. The proposed restored Kanaka Maoli nation will be based on traditional indigenous cultural law and just western law as determined by our Kanaka Maoli people. Non-Kānaka Maoli who agree to abide by our laws will be welcomed as citizens of our nation.

International law does not provide for non-Kanaka Maoli sovereign authority, restitution nor self-determination on Kanaka Maoli land. This is because most Euro-American non-Kānaka Maoli were and remain colonizing settlers and most Asian non-Kānaka Maoli immigrated as laborers who became settlers as did most of their descendants. They exercised their right to self-determination when they became US citizens.

Mahalo no kēia manawa kū pono. A mama, ua lele, ua noa.



Kekuni Blaisdell
Convenor



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DATE: November 22, 1999

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FROM: Kekuni Blaisdell, Convenor
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Both "trusts" from their inception continue to be abused by the colonial "trustee" US and State governments to the detriment of Kanaka Maoli "beneficiaries."

Since this "trust relationship" was imposed, without initiation, negotiation nor mutual consent by the Kanaka Maoli people, it, too, is a violation of our Kanaka Maoli inherent sovereignty and right to self-determination.

Colonial US and State of Hawai'i authorities argue that the Kanaka Maoli "trust relationship" is analogous to Federal Indian Law. We Kānaka Maoli strongly reject such arguments and refuse to be as American Indians, "wards" "in a state of pupillage" of a "domestic dependent nation" "subject to the plenary power of Congress." Indeed, as decolonizing Kānaka Maoli, we also reject being Native Americans, Americans, Hawaiians, native Hawaiians and Native Hawaiians.

5. "Self-determination" for us Kānaka Maoli cannot be limited to "self-government" as determined by OHA, or by Federal Indian Law. It must be true and full self-determination as defined by UN General Assembly Resolutions 1514 (1960) and 2200 (1966): "All peoples have the right to self-determination; by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."

6. "Ceded lands" is a limited and ambiguous term. It usually refers to all of the c.1.8 million acres of crown and Hawaiian Kingdom government lands that were illegally transferred ("ceded") by the unlawful Dole Republic of Hawaii to the US at the time of the illegal annexation in 1898. Since 1959, the term usually refers to the remaining 1.2 million acres of land that were transferred by the US government to the State of Hawai'i. Thus, it usually excludes Hawaiian Home Lands and sometimes, lands controlled by the US government, military and National Park Service. We need also to bear in mind that:

a. About 200,000 acres of additional crown and Kingdom government lands were disposed of by the haole (white) Provisional Government and Republic of Hawaii, between 1893 and 1898, mainly to the haole (white) oligarchy, before the 1898 illegal annexation.

b. All lands were and are subject to the common vested interest of all hōa'āina Kānaka Maoli under Hawaiian Kingdom law and all subsequent (illegal) governments, including the State of Hawai'i.

c. The entire Ka Pae'āina (archipelago), including more than 120 small islands, atolls, waters and submerged ocean beds extending from shorelines to 200 miles of open sea (Exclusive Economic Zone) is our Kanaka Maoli homeland, under indigenous cultural law and western international law.

d. In the 1993 Apology Resolution, the US acknowledged that we Kānaka Maoli never directly relinquished our claims to our inherent sovereignty as a people or over our national lands to the US. The Apology Law also acknowledged that we Kānaka Maoli are determined to preserve, develop and transmit to future generations our ancestral territory... and institutions. Yet, the colonial US Federal and State governments refuse to "return all Kanaka Maoli lands without delay," as recommended by the August 1993 Kanaka Maoli Tribunal.

e. The only lands considered to-date by the colonial US and State governments for potential return to the Kanaka people and nation are the US-bombed and uninhabited Kaho'olawe island, Hawaiian Home Lands and "some" undefined "ceded lands."

In summary, we decolonizing Kānaka Maoli protest colonial attempts to trap us into a further colonized and dependent "political trust relationship" as "beneficiaries" with the colonial US and State governments as "trustees" determining our meager "entitlements." This dependent relationship is inadequate to meet our pressing health, economic, social and cultural needs under their colonial rule. We consider such attempts to be diversions from a readily available option to relieve the plight of our people.

The alternative is the exercise of our Kanaka Maoli true and full self-determination through UN peaceful decolonization, as recommended by the August 1993 Kanaka Maoli Tribunal, based on indigenous cultural law, western international law and the November 1993 US Apology Law.

The main features and actions of this alternative are here outlined:

1. Reinscription of our Kanaka Maoli homeland Ka Pae'āina (Hawai'i) on the UN List of Non-Self-Governing Territories. Since the 1993 Tribunal recommendations, we of the Kanaka Maoli Tribunal Kōmike have gained support for reinscription from the 1994 Pacific Indigenous Caucus

at the UN Working Group on Indigenous Populations; endorsements from the 1995 Pacific Islands Association of Non-Government Organizations (PIANGO) Council on Mo'orea, the September 1996 Indigenous Peoples of the Pacific Workshop on the UN Draft Declaration on the Rights of Indigenous Peoples in Suva, Fiji, the December 1996 7th Nuclear Free and Independent Pacific (NFIP) Conference in Suva, Fiji. Resolutions from the September 1997 Pacific Concerns Resource Center/PIANGO 3rd Non-Government Organization Parallel Forum in Rarotonga and the September 1999 8th NFIP Conference in Arue, Tahiti, call for seeking endorsement from the South Pacific Forum for an initiating resolution in the UN General Assembly. Presentations for reinscription of Ka Pae'āina were also made at the June 1998 UN Decolonization Committee Seminar in Nadi, Fiji, and September 1999 UN Decolonization Committee in New York.

2. Public education on the Kanaka Maoli UN decolonization process in Ka Pae'āina and abroad has continued since the Tribunal in August 1993 in spite of resistance from the colonial establishment. This education effort begins with personal decolonization of the mind, that is, thinking, feeling and behaving as Kanaka Maoli.

3. We emphasize that since initial inscription of Ka Pae'āina in 1946 and the US fraudulent 1959 Statehood process resulting in UN deinscription of Ka Pae'āina, the US, under the UN Charter, has had a "sacred trust" relationship to the UN as administering authority to promote Kanaka Maoli decolonization through an exercise of true self-determination with three options: independence, free association and integration.

Meanwhile, we Kānaka Maoli retain full rights as a people and territory, separate and distinct from the US. We Kānaka Maoli are also entitled to seek and receive technical and financial assistance and impartial oversight from the international community in the self-determination education and voting process. The timetable for this process must be determined by our Kanaka Maoli people. All US repressive measures against Kānaka Maoli must cease. The US must transfer power to our colonized Kanaka Maoli people to attain equality of power. Negotiations and agreements must be by mutual consent. All Kanaka Maoli lands must be returned without delay.

4. As an indigenous people with our own cultural laws, we Kānaka Maoli have a timeless history of being naturally free and independent, and in a natural state of dynamic social, cultural and political evolution. This includes being self-determining, self-governing, self-sufficient and protectors and nurturers of our sacred environment. We are always aware that we depend on our environment for our survival and for all generations in the future. We consider the entire cosmos to be living, conscious and communicating. We come from our sacred cosmos and we belong to it. This indigenous cosmic view contrasts with the materialistic, instant-gratification credo of the dominant, global colonizers whose continuing economic, military and nuclear exploitation results in world-wide devastation.

5. We Kānaka Maoli respect the rights of non-Kānaka Maoli in our homeland under international law and, currently, under the US Constitution while the US exercises *de facto* sovereignty in Ka Pae'āina. When the US withdraws from its illegal occupation of our homeland and yields *de facto* sovereignty to us Kānaka Maoli, the protection of non-Kānaka Maoli will come under the new authority of Kānaka Maoli, as in any other nation. The proposed restored Kanaka Maoli nation will be based on traditional indigenous cultural law and just western law as determined by our Kanaka Maoli people. Non-Kānaka Maoli who agree to abide by our laws will be welcomed as citizens of our nation.

International law does not provide for non-Kanaka Maoli sovereign authority, restitution nor self-determination on Kanaka Maoli land. This is because most Euro-American non-Kānaka Maoli were and remain colonizing settlers and most Asian non-Kānaka Maoli immigrated as laborers who became settlers as did most of their descendants. They exercised their right to self-determination when they became US citizens.

Mahalo no kēia manawa kū pono. A mama, ua lele, ua noa.



Kekuni Blaisdell
Convener